

Supreme Court, U.S.
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IN THE

Supreme Court of the United States

INTERNATIONAL RECTIFIER CORP.,

Petitioner,

v.

SAMSUNG ELECTRONICS CO., LTD. AND
SAMSUNG SEMICONDUCTOR, INC., and IXYS CORPORATION,

Respondents.

**ON PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT**

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

Federal courts every day confront important questions involving unclear or novel state law. One solution has been to certify such questions to the implicated state's supreme court. The Court of Appeals for the Federal Circuit has taken an extremely narrow approach on when certification is appropriate. In this case, for example, the Federal Circuit created a new rule of substantive law for California, contrary to that state's applicable existing authority. The Federal Circuit did so without hearing from the California courts and while declining to follow the standard applied in the regional circuit (the Ninth) for certification. The Federal Circuit's approach conflicts with those of the other Circuit Courts of Appeals, as well as with this Court's precedent in cases such as *Lehman Brothers v. Schein*, 416 U.S. 386, 391, 94 S. Ct. 1741, 1744 (1974), *Arizonans for Official English v. Arizona*, 520 U.S. 43, 48, 62, 76-79, 117 S. Ct. 1055 (1997), and *Erie R. Co. v. Tompkins*, 304 U.S. 64, 58 S. Ct. 817 (1938).

This Court should grant review to resolve the conflicting approaches among the lower federal courts when they are faced with an important question of state substantive law concerning the standard employed to determine whether to certify that question. The following questions are presented:

1. Whether the Federal Circuit erred in not following the Ninth Circuit's approach in certifying questions that present significant unresolved issues, or that involve conflicting or unsettled state law, or that require an expansion of existing state law.

2. Whether there are circumstances under which a federal court, in applying a state-law based rule of decision, is permitted to create new substantive rights under state law.

PARTIES TO THE PROCEEDING

Petitioner International Rectifier Corporation ("IR") was a plaintiff in the district court and an appellee in the proceedings on appeal.

Samsung Electronics Co., Ltd. and Samsung Semiconductor, Inc. (collectively, "Samsung") were the defendants in the district court and appellants in the court of appeal proceedings.

IXYS Corporation ("Ixys") was initially a non-party respondent to an order to show cause re contempt, and later joined the district court proceedings as an intervenor. Ixys was an appellant in the proceedings before the Court of Appeals.

CORPORATE DISCLOSURE STATEMENT

Pursuant to Supreme Court Rule 29.6, International Rectifier Corporation has no parent corporation, and no publicly listed company holds more than 10% of IR's stock.

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OPINIONS BELOW

The District Court for the Central District of California entered its order denying Ixys's motion for attorney fees on May 26, 2004. (App. B, 19a) Ixys appealed, and oral argument was heard on June 7, 2005. The Court of Appeals for the Federal Circuit entered its opinion and judgment reversing the district court's order and remanding for additional proceedings on September 23, 2005. (App. A, 1a; *International Rectifier Corp. v. Samsung Elec. Co.*, 424 F.3d 1235 (Fed. Cir. 2005).)

JURISDICTION

The Court of Appeals for the Federal Circuit entered its judgment on September 23, 2005. (App. A, 1a) International Rectifier timely petitioned that court for rehearing and rehearing *en banc*. The court of appeals denied the petition on November 1, 2005. (App. C, 26a) This Court has jurisdiction under 28 U.S.C. § 1254(1).

STATUTORY PROVISIONS INVOLVED

California Civil Code Section 1717.

"In any action on a contract, where the contract specifically provides that attorney's fees and costs, which are incurred to enforce that contract, shall be awarded either to one of the parties or to the prevailing party, then the party who is determined to be the party prevailing on the contract, whether he or she is the party specified in the contract or not, shall be entitled to reasonable attorney's fees in addition to other costs."

(App. D, 28a).